

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM M. CASEM and U.S. POSTAL SERVICE,
POST OFFICE, San Francisco, CA

*Docket No. 98-1283; Submitted on the Record;
Issued December 15, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has established that he developed a stress-related emotional condition in the performance of duty, causally related to compensable factors of his federal employment.

On October 3, 1995 appellant, then a 39-year-old mailhandler, filed a claim for stress due to continuous harassment by his supervisor. Appellant alleged that he could not sleep at night with his irrational and hostile thoughts about the job. Appellant stopped work on September 14, 1995.

In a September 22, 1995 statement Tim Lynch, appellant's supervisor, noted that appellant had called in on September 20, 1995 stating that he was going to file a stress claim. Mr. Lynch noted that appellant stated that he had not yet seen a physician, that he was not sure if he felt the stress prior to his call-in or not, that he could not provide information as to when the stress occurred, but that he thought it had been building for some time. Mr. Lynch also described the events of appellant's August 25, 1995 request for leave on September 2, 1995 which was denied orally and in writing, where Mr. Lynch denied the request for leave due to no vacation time being open during that period as it was a holiday weekend and due to appellant being needed on both September 2 and 3, 1995. Appellant then called in sick on September 2, 1995 but Mr. Lynch denied his sick leave request because of the previously denied annual leave request for that date. Appellant was off those days and was carried absent without leave (AWOL). Mr. Lynch requested medical documentation for those days when appellant returned, but appellant provided only a note from his podiatrist stating: "Please excuse [appellant] for Saturday and Sunday September 2 [to] 3[, 1995]." The podiatrist also stated on a prescription that appellant was experiencing foot pain on September 2, 1995. Nothing was said about September 3, 1995. Mr. Lynch found that this was insufficient and advised that appellant was being carried AWOL.

Thereafter, appellant submitted an attending physician's report diagnosing "situational stresses, anxiety disorder," with a history of "stresses at work due to problems with supervisor," and noting that appellant was "stopping work September 14, 1995 secondary to feelings of stress and hostility." An accompanying prescription stated that appellant needed medical leave from September 14 until November 1, 1995 "due to stresses on the job which caused psychiatric symptoms."

By letter dated October 30, 1995, the Office of Workers' Compensation Programs requested that appellant describe in detail the employment conditions or incidents implicated in the development of his condition.

In a November 28, 1995 statement, appellant claimed that he was getting tired of his supervisor's constant harassment, that on November 15, 1995 appellant lost control and cussed at Mr. Lynch because he thought Mr. Lynch was being unfair and that because of his previous complaints against Mr. Lynch, he was being singled out. Appellant claimed that while he was talking to a coworker for two to five seconds Mr. Lynch passed by, saw them talking, and got on his case and made a big deal about it, disregarding the coworker to whom appellant was talking. Appellant claimed that when Mr. Lynch asked him to go outside the building to talk with him about the problem, he thought it was a provocation to fight, and that was when he lost his temper and started to cuss Mr. Lynch. Appellant claimed that after a long confrontation with Mr. Lynch outside the building, he went to Mr. Lynch's boss to talk about constant harassment, that the boss talked to Mr. Lynch and that then Mr. Lynch then went to talk to the other person involved. Appellant claimed that the next day he was off duty, but that his coworkers were going to throw him a Birthday party, so he came in to celebrate, but that as he was eating his cake, Mr. Lynch came into the break room and asked him to leave after he finished his meal, which made him furious, upset his stomach and gave him cramps for the whole day.

Appellant also submitted a medical report from Dr. John A Engers, a Board-certified psychiatrist, which stated that appellant was "continuously being subjected to harassment by a Mr. Tim Lynch -- to the point where [appellant] felt that he ... was so explosively angry that he might hurt Mr. Lynch." An October 3, 1995 psychiatric evaluation by Dr. Engers noted that appellant was so distraught at being mistreated that he was thinking of slashing Mr. Lynch's tires or maybe stabbing Mr. Lynch.

By letter dated December 7, 1995, the Office advised appellant that the evidence submitted was insufficient to support his claim and it asked for further details to support his claims of harassment. It suggested that the November 16, 1995 incident was not harassment as it would be appropriate for him to leave the building after the party was over. The Office further noted that the medical report failed to cite any specific work factors implicated in causing appellant's condition. The Office also requested comments from the employing establishment on appellant's allegations.

By response to the Office dated November 23, 1995, Mr. Lynch noted that twice on November 15, 1995 and several times during the prior week he had noticed appellant standing at his assignment conversing with a coworker and not performing any work. At 11:40 a.m. he told appellant to "get some mail on the belt," and appellant complied, but at 12:10 p.m. the same day appellant again was conversing with a coworker and performing no work. Mr. Lynch stated that

at that time he took appellant aside and spoke to him regarding his work performance that date and several times the preceding week. He noted that appellant became agitated and defensive and questioned why he was picking on him. Mr. Lynch noted that appellant filed another stress claim regarding the events of November 15, 1995, in which he implicated the incidents that date and "other things that have happened in the past." Mr. Lynch opined that appellant seemed to have a problem being given instructions or in having his work critiqued and noted that he was "simply giving constructive criticism regarding his performance, as a requirement of my job." Mr. Lynch opined that the cause of appellant's condition was his inability to listen, and take instructions and/or feedback regarding his performance or expectations. Included was a new CA-2 for stress due to "continuing harassment by my supervisor." Appellant claimed that he had become psychologically unstable.

By statement dated December 16, 1995, Mr. Lynch restated his actions on November 15, 1995 noting that after twice seeing appellant talking and not working, he took him approximately 25 feet away from his coworker Jesse Harvey for a personal discussion, that appellant became angry and swore at Mr. Lynch and that he warned appellant that if he swore at him again a letter of warning would be issued. Thereafter, appellant swore: "F__k you" three times at Mr. Lynch. At that point Mr. Lynch asked appellant to step outside the building because he was causing a distraction on the workroom floor. He noted that there was never any provocation but that he was attempting to isolate appellant from his peers and to stop the disturbance he had created. Mr. Lynch noted that, thereafter, there was a three-way discussion between appellant, himself and Mr. Lynch's boss, Mr. Furukawa. Mr. Lynch noted that following that discussion he spoke with Mr. Harvey about the same thing, talking instead of working, which he would have done immediately after dealing with appellant had not appellant created an outburst which required multiple interventions. Mr. Lynch noted that it was he and not appellant who requested that Mr. Furukawa speak with appellant. Mr. Lynch noted that following the party the next day when all of appellant's coworkers had returned to their assignments appellant was still in the swing room eating lunch; that he told him that after he finished eating he needed to leave the building, to which appellant responded affirmatively and that due to liability restrictions, off-the-clock employees are not allowed on premises, which was the reason he was asked to leave the building after he finished his meal.

By statement dated December 18, 1995, Mr. Furukawa recounted the situation of November 15, 1995, noted that he asked Mr. Lynch if he could talk with appellant privately and then in conference with the three of them and noted that he advised appellant that Mr. Lynch was not picking on him, but that in such a situation he would admonish any other associate in a similar situation. Mr. Furukawa noted that he did not counsel Mr. Lynch for fairness in this situation, as appellant intimated, because Mr. Lynch did not violate the ethics or the code of conduct in this case. Mr. Furukawa opined that Mr. Lynch's actions were appropriate in this situation.

Appellant also submitted several witness statements: A November 9, 1995 statement was submitted signed by 10 employees, including appellant, which stated that they did not usually have enough restroom breaks and felt overworked and that they had asked their supervisor for more manpower, but were told that they already had enough people on the job. The employees then asked "But why would he be dumping mail on the belt for so many times in the past?"

Another November 9, 1995 statement, from Sidney Anchondo stated that on September 6, 1995 he heard Mr. Lynch and appellant talking and Mr. Lynch told appellant that the doctor's certificate signature was his.

A third November 9, 1995 statement, from Susie Tokushige noted that on August 3, 1995 appellant asked her to help him lift a heavy sack load of mail and Mr. Lynch saw them and commented to appellant that he should be ashamed for asking for help from a woman.

A November 15, 1995 statement, from Mr. Harvey noted that appellant asked him why there was not that much customs mail, that Mr. Lynch passed by and saw them talking, then he took appellant aside and that then they walked out. Mr. Harvey noted that about 2:30 p.m. Mr. Lynch came to him and told him not to be talking and not working again.

By letter to the employing establishment dated February 26, 1996, appellant claimed that Mr. Lynch was continually harassing him, that he needed the injury compensation supervisor's help because he had feelings of wanting to kill Mr. Lynch, that he wanted authorization to return to see his psychiatrist, that he hoped things did not get out of hand and that his anger about the whole thing was about to explode.

By decision dated October 23, 1996, the Office rejected appellant's claim finding that he failed to establish that his condition was sustained in the performance of duty. The Office found that appellant failed to implicate any compensable factors of his employment in the causation of his emotional condition. The Office found as factual that appellant had been instructed to stop talking and return to work, and to leave the building after finishing his meal on his day off and that neither constituted administrative error or abuse. It found that allegations of "not enough restroom breaks" were not sufficiently specific and hence were not factually established. It found that allegations of overwork were not supported by factual evidence sufficient to establish it as a factual allegation. The Office found that Mr. Lynch's statement that appellant should be ashamed of asking for help from a woman was not alleged by appellant as being a cause of his condition and, therefore, was not considered as being an implicated factor. The Office found that the overheard statement from Mr. Lynch telling appellant that the signature on the doctor's certificate was his was lacking in sufficient detail to be found as factual, that it pertained to administrative leave matters and that it was not evidence of administrative error or abuse.

By letter dated September 9, 1997, appellant requested reconsideration. Appellant alleged that he was being pressured to work harder than he could handle. Appellant alleged that on March 18, 1995 he complained to Mr. Lynch that he could not dump mail on two belts at the same time because it was too heavy for his aching back and Mr. Lynch replied that either he had to do it or had to bid out of the mailhandler craft. On the same day appellant alleged that Mr. Lynch commented that he missed his lunch because appellant was too slow working two belts and he had to stay over to watch appellant. Later that day when appellant could not catch up on his work he alleged Mr. Lynch embarrassed and intimidated him by dumping mail to the belt himself for about 20 minutes and commented that appellant could not catch up with the lady clerks and lady mailhandlers at the machines. Appellant alleged that when he went to the restroom at 3:20 p.m. Mr. Lynch followed him in to time how long he was at the restroom and then told him to go back soon because his machine was getting empty. Appellant alleged that at 3:30 p.m. Mr. Lynch bragged to Eddy Mayang that he liked picking on appellant.

Appellant alleged that Mr. Lynch intimidated his union representative, Mr. Rucker, but no specifics of the intimidation were given and he reiterated the September 2, 1995 leave denial incident alleging that Mr. Lynch was giving him a hard time. Appellant alleged that Mr. Lynch accused him of forging a disability certificate, which made him think he was being retaliated against and that he got upset and was stressed out for several following days. Appellant reiterated the allegations regarding November 15, 1995, and he claimed that he was being singled out. Appellant also alleged that Mr. Lynch threatened Mr. Rucker, who was working on appellant's grievances by stating that he had "better stop putting in grievances or you'll be sorry." Appellant claimed that when he was told about it that week he felt threatened and claimed that it was a stressful and hostile environment.

Appellant alleged that on February 21, 1996 Mr. Lynch sent him to work the primary belt but warned him before he started not to talk while on the primary belt. Appellant asked if Mr. Lynch gave that warning to everyone else and was told "no." He alleged that he felt discriminated against and singled out and claimed that Mr. Lynch was aggravating his stresses. Appellant claimed that almost everyone at his unit hated Mr. Lynch because he was a real stress master and claimed that he did not understand why management defended him and promoted him.

Appellant submitted further factual evidence in support of his claim. In an October 4, 1994 letter, to the plant manager 25 employees complained that Mr. Lynch did not treat employees fairly and equally, did not handle employee relations and situations with consistency, did not treat employees with respect and dignity, demonstrated racist and prejudicial attitudes towards certain employees, consistently showed a bad attitude, thought he could do no wrong, created an atmosphere of tension, conflict and mistrust, was not respected or trusted and caused a very high potential for violence in the workplace, and they recommended that he be demoted and/or transferred.

In an April 5, 1995 statement, Edwin D. Mayang stated that Mr. Lynch was watching him "pressuring to work on dumping on two belts! Cancel stamps also Tim Lynch told Ed Mayang I'm not picking on you! I'm picking on [appellant]!"

In a March 18, 1996 statement, Esther Vigil claimed that she had worked with Mr. Lynch for two-years, during which there had been numerous incidents with lots of grievance and lots of unhappy employees working under Mr. Lynch. She claimed that Mr. Lynch had an attitude that he could do no wrong, but noted that personally she did not have any problems with him.

In a February 13, 1997 statement, the union representative claimed that from April 1995 to January 1996 on many occasions supervisor Mr. Lynch "bordered on harassment of [appellant]. But the entire situation could have been avoid [sic] with less mind games by Tim Lynch to send [appellant] over the edge."

In a February 14, 1997 unsigned statement, merely listing the people in attendance it was noted that on August 24, 1995 at a safety talk My. Lynch referred to himself as "the stress master."

In another February 14, 1997 statement, four employees attested to the union representative telling them that around November 24, 1995 Mr. Lynch threatened him by telling him that he had better stop putting in grievances or he would be sorry.

In a July 3, 1996 affidavit, Mr. Lynch addressed the February 21, 1996 incident noting that he reminded appellant to minimize his talking while he was supposed to be dumping mail, due to his past history of being disciplined for talking excessively when he was supposed to be working. Mr. Lynch stated that he was attempting to proactively minimize any future incident that appellant might have while working in that particular assignment. Mr. Lynch also noted that appellant was placed on administrative leave effective March 3, 1996 pending investigation of the statement he made in his February 26, 1996 letter, to employing establishment injury compensation supervisor. It was determined that a threat had been made against Mr. Lynch and a notice of removal was prepared dated April 18, 1996. Thereafter, appellant grieved his removal.¹ Mr. Lynch noted that another employee was also removed from employment, similarly, for physical assault on a supervisor.

In a response dated October 17, 1997, Mr. Lynch stated that he had no recollection of appellant's comments relevant to March 18 or August 3, 1995. He further noted that following appellant's letter of warning for talking while on the primary belt, February 21, 1996 was the first day he was reassigned to work the same area in which he had received the letter of warning. Mr. Lynch stated, "Management made a proactive decision to warn [appellant] about excessive talking on the date in question, as he had a continual habit of talking rather than working in that particular work area."

Appellant also submitted a November 10, 1997 Step 3 grievance resolution regarding a notice of removal dated March 29, 1996 for threatening a postal supervisor, being changed to a 165-day suspension from May 13 to October 25, 1996.

Appellant further resubmitted statements previously submitted and considered by the Office and a letter claiming that several of his grievances were not resolved to his satisfaction.

By decision dated December 12, 1997, the Office denied modification of the October 23, 1996 decision, finding that the evidence submitted in support was insufficient to warrant modification. The Office found that Mr. Lynch denied any recollection of the events of March 18, 1995 and that appellant submitted no corroborating evidence, such that none of the events were established as being factual or having occurred. The Office found that Mr. Mayang's April 5, 1995 statement did not refer to a date of occurrence, and sounded like a statement regarding Mr. Lynch pressuring Mr. Mayang to work and not appellant. The Office found that this statement did not demonstrate administrative error or abuse in monitoring appellant's work speed or performance. The Office found that the matters regarding appellant's leave denial for September 2, 1995 were an administrative matter and that there was no evidence of supervisory error or abuse in the handling of his request. The Office found that the alleged threat made to the union representative on November 24, 1995 was not supported by any direct

¹ Appellant claimed that he was being discriminated against because he was the only Filipino male on his unit. Appellant's grievance was initially denied.

factual evidence or a statement from the representative, but only by second hand hearsay. The Office found that Mr. Lynch's remarks on February 21, 1996 was a management decision, and hence was administrative/supervisory in nature, was a proactive attempt to ward off future problems and did not demonstrate administrative error or abuse. The Office further found that the final settlement of appellant's grievance of his notice of removal and reduction to a 165-day suspension was not an admission of any administrative error or abuse. As the Office found that none of the further incidents appellant implicated in the causation of his emotional condition were found to be established as factual or compensable factors of employment, he had failed to establish his claim.

The Board finds that appellant has failed to establish that he developed a stress-related emotional condition in the performance of duty, causally related to compensable factors of his federal employment.

To establish appellant's claim that he has sustained an emotional condition in the performance of duty, appellant must submit the following: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to his condition; (2) rationalized medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.² Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. Such an opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.³

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept of workers' compensation. These injuries occur in the course of employment and have some kind of causal connection with it but are not covered because they do not arise out of the employment. Distinctions exist as to the type of situations giving rise to an emotional condition which will be covered under the Federal Employees' Compensation Act. Where the disability results from an emotional reaction to regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Act. On the other hand, the disability is not compensable where it results from such factors as an employee's fear of a reduction-in-force, his frustration from not being permitted to work in a particular environment or to hold a particular position, or his failure to secure a promotion. Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning of the

² See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ See *Martha L. Watson*, 46 ECAB 407 (1995); *Donna Faye Cardwell*, *supra* note 2.

Act.⁴ When the evidence demonstrates feelings of job insecurity and nothing more, coverage will not be afforded because such feelings are not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Act.⁵ In these cases, the feelings are considered to be self-generated by the employee as they arise in situations not related to his assigned duties. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse cannot be considered self-generated by the employee but caused by the employing establishment.⁶

When working conditions are alleged as factors in causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions, are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁷ When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.⁸ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence of record.⁹

In the present case, none of the employment factors appellant cited were found to be compensable factors of employment.

Appellant alleged that he suffered a great deal of supervisory harassment and discrimination. With regard to his allegations of harassment, it is well established that for harassment to give rise to a compensable disability under the Act there must be some evidence that the implicated incidents of harassment did, in fact, occur. Mere perceptions of harassment or discrimination are not compensable.¹⁰ An employee's charges that he or she was harassed or discriminated against are not determinative of whether or not harassment or discrimination

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *Artice Dotson*, 41 ECAB 754 (1990); *Buck Green*, 37 ECAB 374 (1985); *Peter Sammarco*, 35 ECAB 631 (1984).

⁶ *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon.*, 42 ECAB 566 (1991).

⁷ *See Barbara Bush*, 38 ECAB 710 (1987).

⁸ *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁹ *See Gregory J. Meisenberg*, 44 ECAB 527 (1993).

¹⁰ *Helen Casillas*, 46 ECAB 1044 (1995); *Ruth C. Borden*, 43 ECAB 146 (1991).

occurred. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.¹¹

In this case, appellant alleged that virtually all of the actions taken by Mr. Lynch concerning him, most of which were in the nature of supervisory, personnel and administrative actions, constituted harassment and/or discrimination. In *Thomas D. McEuen*¹² the Board held that an employee's emotional reaction to administrative actions or personnel matters taken by the employing establishment is not covered under the Act as such matters pertain to procedures and requirements of the employer and do not bear a direct relation to the work required of the employee. The Board noted, however, that coverage under the Act would attach if the factual circumstances surrounding the administrative or personnel action established error or abuse by the employing establishment superiors in dealing with the claimant.¹³ Absent evidence of such error or abuse, the resulting emotional condition must be considered self-generated and not employment generated. The incidents implicated and allegations made by appellant, which fall into this category of administrative or personnel actions include: appellant being monitored for performance and production,¹⁴ appellant being instructed on how to perform his work,¹⁵ appellant's leave requests being denied,¹⁶ appellant being requested to provide medical documentation for requested sick leave,¹⁷ appellant being counseled regarding talking when he did not see others being counseled regarding talking,¹⁸ being removed from the work area for counseling,¹⁹ and appellant being asked to leave the premises when not on duty. Appellant has presented no evidence of administrative or supervisory error or abuse in the performance of these actions, therefore, they are not compensable under the Act and they, further, do not constitute harassment or discrimination against appellant.

Appellant filed a grievance about his receiving a notice of removal for threatening Mr. Lynch's life, which was ultimately reduced to a 165-day suspension, but this is also not evidence of administrative error or abuse.²⁰

¹¹ See *Anthony A. Zarcone*, 44 ECAB 751 (1993).

¹² See *supra* note 6.

¹³ See *Richard J. Dube*, 42 ECAB 916 (1991).

¹⁴ See *Michael Thomas Plante*, 44 ECAB 510 (1993); *Larry J. Thomas*, 44 ECAB 291 (1992); *Jimmy B. Copeland*, 43 ECAB 339 (1991).

¹⁵ *Id.*

¹⁶ *Leroy Thomas, III*, 46 ECAB 946 (1995); *O. Paul Gregg*, 46 ECAB 624 (1995); *Martha L. Watson*, 46 ECAB 407 (1995); *Elizabeth Pinero*, 46 ECAB 123 (1994).

¹⁷ *Helen Casillas*, *supra* note 10.

¹⁸ See *Gregory N. Waite*, 46 ECAB 662 (1995); *Jose L. Gonzalez-Garced*, 46 ECAB 559 (1995); *Carolyn King Palermo (Dwayne Palermo)*, 42 ECAB 435 (1991).

¹⁹ *Id.*

²⁰ See *Mary L. Brooks*, 46 ECAB 266 (1994); *Michael Thomas Plante*, *supra* note 14.

Appellant also alleged that the events of March 18, 1995 were harassment, but he failed to submit any corroborating evidence to support that the events occurred as alleged and Mr. Lynch denied any recollection of them occurring as alleged. Therefore, these allegations of harassment are unsubstantiated.

Appellant alleged that when he heard about Mr. Lynch intimidating Mr. Rucker, his union representative, he felt threatened, but no statement from Mr. Rucker was presented to establish that this incident occurred as alleged. A statement from coworkers claiming that Mr. Rucker had told them that Mr. Lynch had threatened him was submitted but this was a third-party hearsay declaration and did not establish that the incident occurred as alleged. Further, in his February 13, 1997 statement the union representative stated only that on many occasions Mr. Lynch “bordered on harassment” of appellant, without stating specifically when and how and what occurred. This, therefore, is insufficiently specific to support that harassment did in fact occur.

Appellant’s allegations regarding not having enough restroom breaks and feeling overworked, and feeling pressured to work harder, were not supported by factual evidence and lacked sufficient specificity to be considered as being established factors of employment.

Mr. Anchondo’s statement about Mr. Lynch telling appellant that the signature of the disability certificate was his and not his doctor’s, pertained to administrative matters and did not provide evidence of administrative error or abuse.

Ms. Vigil’s statement did not support that appellant had been harassed at a specific time and place in a specific manner by Mr. Lynch, nor did the complaints of the 25 employees, which were vague allegations without specific instances cited. Therefore, these comments do not support appellant’s allegations of harassment.

The unsigned statement listing people in attendance at a safety meeting where Mr. Lynch allegedly referred to himself as the stress master is not probative of whether or not it actually occurred, as the fact was not attested to by signatures, and further did not establish that Mr. Lynch harassed appellant at a specific time and place or in a specific manner.

However, Mr. Mayang’s statement about Mr. Lynch watching him but stating that he was not picking on him, he was “picking on appellant,” and Ms. Tokushige’s statement about Mr. Lynch telling appellant that he should “be ashamed” to ask a woman to help him lift a sack support that these statements did occur, but appellant failed to specifically implicate these statements as causative of his emotional condition and, moreover, none of the medical evidence submitted specifically addressed these statements as causative factors, referring instead only to general “mistreatment,” “harassment,” and “stresses,” hence appellant has not established that these comments caused him to develop his alleged anxiety disorder.

As the only compensable factors of his employment established by appellant were Mr. Lynch’s comments to Mr. Mayang and in front of Ms. Tokushige, and as none of the medical evidence supports that these comments caused appellant’s anxiety disorder, appellant has failed to establish that he developed an anxiety disorder, causally related to compensable factors of his federal employment.

Accordingly, the decision of the Office of Workers' Compensation Programs dated December 12, 1997 is hereby affirmed.

Dated, Washington, D.C.
December 15, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member